

(iv) Complete that training or do not complete that training, and the reasons for the noncompletion, and

(2) Data from the compliance surveys of the employer which indicate the number of eligible persons who have undertaken a job training program, the number of such persons who failed to complete it, and the reasons for the noncompletion.

(Authority: 106 Stat. 2764, Pub. L. 102–484, sec. 4490(b); 10 U.S.C. 1143 note)

(e) *Notification.* If, after considering the data described in paragraphs (c) and (d) of this section, the Director of the VA field facility of jurisdiction determines that the completion rate for a job training program is disproportionately low due to deficiencies in the quality of the program, the Director will disapprove further initial entry by eligible persons into the program and shall notify the employer of that disapproval. The notice shall be by certified mail or registered letter, return receipt requested, and shall include:

(1) A statement of the reasons for disapproval, including a summary of the evidence considered,

(2) Notice of the opportunity to submit documentary evidence and to have a hearing before the Director of the VA field facility of jurisdiction or his or her designee, and

(3) Notice of the employer's right to request, within 60 days after receipt of the notice, a review by the Director, Education Service, of the disapproval decision by the Director of the VA field facility of jurisdiction.

(4) A review by the Director, Education Service, of a disapproval decision of the Director of the VA field facility will be based upon the evidence of record when the original decision to disapprove new program entrants was made. It will not be de novo in nature and no hearing will be held. The Director, Education Service, has the authority to affirm, reverse, or remand the original decision. The reviewing official's action, other than a remand, shall be the final Department decision on the issue presented.

(Authority: 106 Stat. 2765, Pub. L. 102–484, sec. 4491(b), 10 U.S.C. 1143 note)

(f) *Period of disapproval.* (1) A disapproval of further program entry as

described in paragraph (a) of this section shall remain in effect until the Director of the VA field facility of jurisdiction determines that the employer has remedied the program deficiencies which resulted in the disapproval.

(2) Upon reinstatement of approval of program entry, payments will be made on behalf of new participating eligible persons only for training received after the date remedial action was taken, as determined by the Director of the VA field facility.

(Authority: 106 Stat. 2765, Pub. L. 102–484, sec. 4491(b)(3), 10 U.S.C. 1143 note)

#### § 21.4824 Withdrawal of approval.

(a) *Approval may be withdrawn.* The Director of a VA field activity may immediately disapprove the further participation by all eligible persons in a job training program which previously has been approved when:

(1) The program ceases to meet any of the requirements of § 21.4820 or § 21.4822.

(2) The Director finds that the employer's certification provided pursuant to § 21.4822(a) was false; or

(3) The employer, or an educational institution with which the employer has contracted to provide all or part of the training, refuses to make available to an authorized representative of the Federal Government those records which the employer (and the educational institution) is required to keep under § 21.4850.

(b) *Notification.* The Director of the VA field facility of jurisdiction shall notify the employer and all eligible persons participating in the program that approval is being withdrawn. The notices shall be by certified mail return receipt requested, and shall include:

(1) A statement of the reasons for the withdrawal of approval, including a summary of the evidence considered;

(2) Notice of the right of the employer or eligible person to submit documentary evidence and have a hearing before the Director of the VA field facility of jurisdiction or his or her designee concerning the withdrawal of program approval;

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(3) In the case of an employer notice of the employer's right to request a review by the Director, Education Service, of the disapproval decision by the Director of the VA field facility of jurisdiction. To exercise that right, the employer must request within 60 days either after the date of notice of the initial decision of the Director of the VA field facility of jurisdiction or the date of notice of any confirming decision by that Director following a timely requested hearing or timely submission of new evidence, or both, and

(4) In the case of a notice sent to eligible persons, notice of the right of the eligible person to appeal the decision to the Board of Veterans Appeals and to have a hearing under the same process as is provided in Part 19, Subpart B of this title.

(Authority: 106 Stat. 2761-2763, Pub. L. 102-484, sec. 4486, 4487, 38 U.S.C. 501(a); 10 U.S.C. 1143 note)

(c) *Review of a decision to withdraw approval of a program.* A review by the Director, Education Service, of a disapproval decision of the Director of the VA field facility will be based upon the evidence of record when the original decision to disapprove new program entrants was made. It will not be de novo in nature and no hearing on review will be held. The Director, Education Service, has the authority to affirm, reverse, or remand the original decision. The reviewing official's action, other than a remand, shall be the final Department decision on the issue presented, unless an adversely affected eligible person prevails in an appeal of the decision to the Board of Veterans Appeals.

(Authority: 38 U.S.C. 512(a))

### §§ 21.4825—21.4829 [Reserved]

#### PAYMENTS

### § 21.4830 Entrance into training.

(a) *Notice of intent to hire before employee's entrance into training.* Before an eligible person enters an approved job training program, the employer shall submit to the VA at the address on the form prescribed by the VA information

concerning whether the employer intends to hire the eligible person.

(Authority: 106 Stat. 2764, Pub. L. 102-484, sec. 4488(a); 10 U.S.C. 1143 note)

#### (b) *Lack of funds may prevent training.*

(1) If VA determines that funds are not available to make payments to the employer on behalf of the eligible person, VA may withhold or deny approval of the eligible person's entry into a job training program.

(2) The eligible person may enter the job training program on or after the date the notice of intent to hire described in paragraph (a) of this section is submitted to VA. However, VA may not provide assistance to the employer if, within two weeks after the date on which the notice of intent to hire is transmitted to VA, VA disapproves the eligible person's entry into that program due to a lack of funds.

(Authority: 106 Stat. 2764, Pub. L. 102-484, sec. 4488(a); 10 U.S.C. 1143 note)

[60 FR 5852, Jan. 31, 1995, as amended at 61 FR 29297, June 10, 1996]

### § 21.4831 [Reserved]

### § 21.4832 Payments to employers.

Payments made to employers for training eligible persons and employing them in the respective positions for which they trained shall be made in accordance with the provisions of this section.

(a) *Periodic wage reimbursement payments for training provided the eligible person.* Subject to the certification requirements of paragraph (a)(3) of this section and the limitations and restrictions stated in paragraphs (d) and (e) of this section, VA will make quarterly wage-reimbursement payments to the employer based upon training provided to an eligible person. An employer with fewer than 75 employees when the eligible person enters training may, upon request, receive such payments on a monthly basis.

(1) *Amount of periodic payment.* VA will determine the amount of periodic payment to the employer by multiplying 50 percent of the normal starting hourly wage paid by the employer to the eligible person (without regard to